

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

X14289

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) *24 July 2005* see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference see form PCT/ISA/220	FOR FURTHER ACTION See paragraph 2 below	
International application No. PCT/US2004/030914	International filing date (day/month/year) 12.10.2004	Priority date (day/month/year) 24.10.2003
International Patent Classification (IPC) or both national classification and IPC C07D401/04, C07D213/46, A61K31/44, A61P25/00		
Applicant ELI LILLY AND COMPANY		

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Lauro, P Telephone No. +49 89 2399-8288	
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Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. **type of material:**
 - a sequence listing
 - table(s) related to the sequence listing
 - b. **format of material:**
 - in written format
 - in computer readable form
 - c. **time of filing/furnishing:**
 - contained in the international application as filed.
 - filed together with the international application in computer readable form.
 - furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2004/030914

**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or
industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	1-49
	No: Claims	
Inventive step (IS)	Yes: Claims	1-49
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-30,36-49
	No: Claims	31-35

2. Citations and explanations

see separate sheet

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following documents:
D1: WO-A-03 091226
D2: US-A-6 432 952
2. The document D1, which was published on 06.11.2003 and therefore after the priority date of the present application, is not taken into consideration for the purpose of the present opinion.
3. The present application is directed to two different crystalline forms of a triazole derivative, the method for their production (in which the intermediate is claimed *per se*) and their use as pharmaceutical agents for the treatment of conditions associated with an excess of tachykinins.
4. Polymorphic forms of triazole derivatives are disclosed in D2; however, due to the number of structural differences compared to the compounds of the current application, novelty and inventive step re D1 is acknowledged.
5. Claims 31 to 34 are directed to a method for treatment of the human or animal body by therapy.
6. Further observation:

Claim 19 should refer back to the product as claimed *per se* in the previous claims, otherwise a non-unity problem arises (namely the presence of two inventions: 1) the provision of crystalline form IV and V; 2) the provision of a process for the preparation of the triazole derivative.